

MONSHOUWER et al. - 09/940,819
Client/Matter: 081468-0313792

REMARKS

Claims 1-6 and 8-11 are pending. By this Amendment, the abstract is amended and claims 1-6 and 8-11 are amended. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Applicants respectfully request acknowledgment of the certified copy of the priority document submitted with the application on August 28, 2001.

Claims 1 and 9 were objected to. Claims 1 and 9 have been amended in accordance with the suggestion of the Office Action. Reconsideration and withdrawal of the objection to claims 1 and 9 are respectfully requested.

Claims 1-6 and 8-11 were rejected under 35 U.S.C. §112, second paragraph.

Claims 1 and 9 have been amended to change the term "substantially smaller" to "smaller." The term "substantially equal" has been changed to "approximately equal." It is respectfully submitted that these changes obviate the rejection.

With respect to the determination on page 3, paragraph number 7, that claims 1 and 9 are incomplete for omitting essential structural cooperative relationships of elements, the rejection is respectfully traversed.

MPEP §2172.01 states: "A claim which omits matter disclosed to be essential to the invention as described in the specification or in other statements of record may be rejected under 35 U.S.C. §112, first paragraph, as not enabling." (Emphasis added.) MPEP §2172.01 further states: "In addition, a claim which fails to interrelate essential elements of the invention as defined by applicant(s) in the specification may be rejected under 35 U.S.C. §112, second paragraph for failure to point out and distinctly claim the invention."

It is respectfully submitted that Applicants have neither disclosed nor defined in the specification any of the structural cooperative relationships identified on page 3, paragraph number 7, to be essential to the invention.

Reconsideration and withdrawal of the rejection of claims 1 and 9 under 35 U.S.C. §112, second paragraph are respectfully requested.

Claims 1-4, 6 and 8 were rejected under the judicially doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent Application 09/940,818.

Applicants respectfully disagree that claims 1-4, 6 and 8 are obvious in view of claims 1-7 of U.S. Patent Application 09/940,818. It is also respectfully submitted that the Office Action fails to perform the analysis required by MPEP §804B.1. In particular, it is respectfully submitted that the Office Action fails to identify the differences between the

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inventions defined by claims 1-4, 6 and 8 of the instant application and claims 1-7 of U.S. Patent Application 09/940,818 and the reasons why a person of ordinary skill in the art would conclude that the invention defined in claims 1-4, 6 and 8 are an obvious variation of the invention defined in claims 1-7 of U.S. Patent Application 09/940,818. It is further respectfully submitted that as the rejections under 35 U.S.C. §112, second paragraph have been addressed and overcome, the only remaining rejection in the application is the obviousness-type double patenting rejection. In accordance with MPEP §822.01, Applicants respectfully request that the Examiner withdraw the rejection in this application and permit this application to issue as a patent.

Reconsideration and withdrawal of the rejection of claims 1-4, 6 and 8 under the judicially created doctrine of obviousness-type double patenting are respectfully requested.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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